

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: John Butler	Team: Squad #5	CCRB Case #: 201507542	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 09/01/2015 6:00 AM	Location of Incident: § 87(2)(b)	Precinct: 113	18 Mo. SOL 3/1/2017	EO SOL 3/1/2017	
Date/Time CV Reported Wed, 09/02/2015 11:18 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Wed, 09/02/2015 11:18 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Donnell Myers	06430	934020	GANG Q
2. DT3 John Barratt	00950	900170	QS GANG
3. DT3 Christophe Cruzado	4329	945630	QS GANG

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Brett Topping	04706	945330	QS GANG
2. DT3 Michael Obrien	810	946068	QS GANG
3. DT3 Steven Millwater	05789	935325	QS GANG
4. DT3 Joseph Weldon	3702	942693	QS GANG
5. DT3 Amandeep Kaur	5128	941989	QS GANG
6. SGT Diego Vivar	05613	937698	QS GANG

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Donnell Myers	Abuse: Det. Donnell Myers entered and searched § 87(2)(b) in Queens.	§ 87(2)(b)
B.DT3 John Barratt	Discourtesy: Det. John Barratt spoke discourteously to § 87(2)(b)	§ 87(2)(b)
C.DT3 John Barratt	Force: Det. John Barratt used physical force against § 87(2)(b)	§ 87(2)(b)
D.DT3 Christophe Cruzado	Force: Det. Christopher Cruzado used physical force against § 87(2)(b)	§ 87(2)(b)

Case Summary

§ 87(2)(b) filed this complaint with the CCRB via the Call Processing System on September 2, 2015.

This case is more than 90 days old due to § 87(2)(b)'s initial failure to cooperate with the investigation and problems with officer interview scheduling. § 87(2)(b) initially refused to schedule an interview and referred all scheduling attempts to his civil attorney, § 87(2)(b). § 87(2)(b) failed to schedule an interview for § 87(2)(b) despite repeated contact attempts, and the case was truncated as complainant uncooperative on October 2, 2015. On October 8, 2015, the case was reopened upon § 87(2)(b)'s request. § 87(2)(b)'s initial failure to cooperate with the CCRB delayed the investigation by 36 days. In addition, the case was delayed by over 60 days because one of the subject officers, Det. John Barratt of the Queens Gang Squad, was on long term medical leave and was not authorized to travel for court appearances. § 87(2)(g)

§ 87(2)(g)

There is no video footage of this incident.

On September 1, 2015, at approximately 6:00 a.m., Det. Donnell Myers and multiple members of the Queens Gang Squad entered and searched § 87(2)(b) in Queens pursuant to a valid search warrant requested by Det. Myers (**Allegation A**). During the entry and search, Det. John Barratt of the Queens Gang Squad allegedly referred to § 87(2)(b) as a “scumbag” and a “piece of shit” (**Allegation B**). Det. Barratt, Det. Cristopher Cruzado, and one other member of the Queens Gang Squad held § 87(2)(b) on the ground. Det. Barratt then allegedly either slammed § 87(2)(b)'s head into the floor or punched him twice in the face on his left cheek and left eyebrow (**Allegation C**). Det. Cruzado then punched § 87(2)(b) more than five times on his left shoulder, left thigh, and the inside of his right leg above his knee (**Allegation D**). Det. Myers arrested § 87(2)(b)'s brother, § 87(2)(b) for § 87(2)(b). § 87(2)(b) was not arrested or issued a summons during the incident. § 87(2)(b) sustained a laceration to his left eyebrow from the force used by Det. Barratt, and he sustained bruises to his left shoulder; left thigh; and right leg above his knee from the force used by Det. Cruzado. § 87(2)(b) received medical treatment at § 87(2)(b) where he received two stitches to treat the laceration to his left eyebrow (Board Review 01-02).

Mediation, Civil, and Criminal Histories

This case was unsuitable for mediation because § 87(2)(b) filed a lawsuit in regards to this incident (Board Review 03). § 87(2)(b) [§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

This is § 87(2)(b)'s first CCRB complaint (Board Review 04).

Det. Myers has been a member of the NYPD for 12 years and has been the subject of 16 prior CCRB complaints involving 34 allegations, none of which were substantiated. § 87(2)(g)

Det. Barratt has been a member of the NYPD for 24 years and has been the subject of five prior CCRB complaints involving six allegations, none of which were substantiated. § 87(2)(g)

Det. Cruzado has been a member of the NYPD for eight years and has been the subject of one prior CCRB complaint involving six allegations. Det. Cruzado has three prior substantiated allegations for a stop of a person, § 87(4-b) § 87(2)(g). The board recommended command discipline for Det. Cruzado's substantiated stop allegation. § 87(2)(g)

Potential Issues

§ 87(2)(b)'s brothers, § 87(2)(b) and § 87(2)(b) his mother, § 87(2)(b) and his uncles, § 87(2)(b) and § 87(2)(b) were inside the house at the time of the incident, but they were not in the same room with § 87(2)(b) and did not witness the alleged force. These individuals were not interviewed. § 87(2)(b) and § 87(2)(b) provided unverified phone statements (Board Review 05-08).

Findings and Recommendations

Explanation of Subject Officer Identification

§ 87(2)(b) was asleep on the ground when the officers entered the house, and he alleged that three officers approached him and immediately held him to the ground (Board Review 01). One of these officers allegedly referred to him as a "scumbag" and a "piece of shit" and then "slammed" his face, causing a laceration to his forehead. § 87(2)(b) and § 87(2)(b) were consistent in describing this officer as an approximately 50 year-old white male with gray hair and a heavy build. As per the MOS photos of the officers involved in the search warrant execution, Det. Barratt matched this description exactly as a § 87(2)(b)-old white male with gray hair and heavy build (Board Review 23). No other officer on scene matched this description.

§ 87(2)(g) § 87(2)(b) alleged that the two other officers held his lower body to the ground while Det. Barratt "slammed" his face. One of these officers punched or kicked his left arm, left thigh, and the back of his right leg above his knee. § 87(2)(b) described both of these possible subject officers as 30 to 40 year-old white males with skinny builds and dark hair standing 5'6" to 5'8" tall (Board Review 01). He could not determine which officer struck him because his head was turned away from them. § 87(2)(b) observed an officer punch § 87(2)(b) once on his left shoulder, and she described this officer as a white male in his late 30s with an athletic build standing 5'9" to 5'10" tall. § 87(2)(b) saw only one other officer make physical contact with § 87(2)(b) but this officer only held § 87(2)(b)'s ankles to the ground (Board Review 02). Based on § 87(2)(b)'s account, the officer who punched § 87(2)(b) was the same officer who initially made contact with § 87(2)(b)'s shoulders to hold him on the ground.

Det. Cruzado acknowledged that he was the first officer to make contact with § 87(2)(b) and that he held § 87(2)(b) to the ground by his shoulders, but he denied punching § 87(2)(b) (Board Review 10). All of the other officers denied using any physical force against § 87(2)(b). As such, Det. Cruzado acknowledged taking all of the actions attributed to the subject officer except for the allegation itself. While Det. Cruzado identifies a Hispanic male, he could reasonably be mistaken for a white male, and he is approximately the same age, height,

and body type as attributed to the subject officer of this allegation. § 87(2)(g)

Allegations Not Pleaded

§ 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Allegation A – Abuse of Authority: Det. Myers entered and searched § 87(2)(b) in Queens.

§ 87(2)(b) was asleep on the § 87(2)(b) of his § 87(2)(b) house at § 87(2)(b) in Queens when Det. Baratt, Det. Cruzado, Det. Brett Topping, Det. § 87(2)(b) O'Brien, Det. Steven Millwater, Det. Joseph Weldon, Det. Amandeep Kaur, and Sgt. Diego Vivar of the Queens Gang Squad forcibly entered into the § 87(2)(b) from outside (Board Review 01). Det. Myers, Det. Stephen Lalchan, Det. Adam Georg, and Det. Narinda Mourgen of the Queens Gang Squad entered the § 87(2)(b) of the house at this time.

§ 87(2)(b) resides in a § 87(2)(b) home owned by his grandfather, § 87(2)(b) § 87(2)(b) who was not present during the incident. § 87(2)(b) and § 87(2)(b) reside on the § 87(2)(b) of the house, and § 87(2)(b) and § 87(2)(b) reside on the third floor of the house. All of these civilians were present inside of the house on their respective floors during the incident. § 87(2)(b) does not reside at § 87(2)(b), but she was on the § 87(2)(b) with § 87(2)(b) during the incident. § 87(2)(b) was awake at the time of the officers' entry and held her and § 87(2)(b)'s seven month old son.

Police documentation confirmed that the officers entered and searched § 87(2)(b)'s home pursuant to a search warrant for a firearm (Board Review 26). PO Nicholas Neve of the 78th Precinct was initially listed as the requesting officer for the warrant. However, the 78th Precinct asked the Queens Gang Squad to execute the warrant, and Det. Myers became the requesting officer for the execution of the warrant (Board Review 09 and 27-28). § 87(2)(g)

Allegation B – Discourtesy: Det. John Barratt spoke discourteously to § 87(2)(b)

Allegation C – Force: Det. John Barratt used physical force against § 87(2)(b)

According to § 87(2)(b) he awoke upon hearing his son scream (Board Review 01-02). § 87(2)(b) did not know that officers were inside, and he lifted himself less than an inch off the ground with the intention to check on his son. At this time, Det. Cruzado, Det. Barratt, and a third unidentified police officer approached § 87(2)(b). The officers "got on top of" § 87(2)(b) but § 87(2)(b) could not describe exactly how the officers did so. § 87(2)(b) could not effectively describe the officers' actions because he was disoriented from having just awoken from a deep sleep. At this time, Det. Barratt allegedly said, "You scumbag. You piece of

shit.” Det. Barratt then allegedly “slammed” § 87(2)(b) s face, but § 87(2)(b) could not describe how Det. Barratt did so because he was disoriented in the manner previously described. § 87(2)(b) observed Det. Barratt strike § 87(2)(b) s left cheek once with a closed fist and then strike § 87(2)(b) s left eyebrow once with a closed fist.

§ 87(2)(b) allegedly sustained a laceration above his left eyebrow from Det. Barratt’s “slam,” and he provided a photo of this injury taken on the date of the incident (Board Review 21). Det. Myers prepared an AIDED report immediately after the incident confirming the existence of this laceration (Board Review 24). § 87(2)(b) called for an ambulance shortly after the officers left the scene. EMS workers and officers from the 113th Precinct responded, and the officers from the 113th Precinct documented § 87(2)(b) s laceration in a separate AIDED report (Board Review 25). § 87(2)(b) was transported to § 87(2)(b) in Long Island where he received two stitches for a laceration to his left eyebrow and was diagnosed with tenderness to his left cheek (Board Review 17). § 87(2)(b) s medical records confirmed that he attributed his injury to being “assaulted” by police officers, and the records were consistent with § 87(2)(b) s CCRB testimony in that he did not know how the officers “assaulted” him.

§ 87(2)(g)

Allegation D – Force: Det. Christopher Cruzado used physical force against § 87(2)(b)

According to § 87(2)(b) Det. Cruzado either punched or kicked him more than five times on his left shoulder, left thigh, and the back of his right leg above his knee at approximately the same time that Det. Barratt allegedly used force against him (Board Review 01). § 87(2)(b) observed Det. Cruzado punch § 87(2)(b) s left shoulder once with a closed fist, but she did not see him throw any additional punches (Board Review 02). § 87(2)(b) saw one other unidentified officer hold § 87(2)(b) s ankles on the ground, but she did not see any other officer make any physical contact with § 87(2)(b).

§ 87(2)(b) denied resisting the officers during the incident. § 87(2)(b) witnessed § 87(2)(b) move his legs back and forth slightly after Det. Barratt punched him in the face. § 87(2)(b) also saw that Det. Cruzado initially pushed § 87(2)(b) onto his right side, causing his right arm to become trapped under his body. Because of this, the officers appeared to have some difficulty bringing § 87(2)(b) s right arm behind his back. § 87(2)(b) s left arm was already positioned near his back, and the officers handcuffed him after they ultimately succeeded in freeing § 87(2)(b) s trapped right arm.

According to the officers, Det. Cruzado and Det. O'Brien were the first to enter the § 87(2)(b) of the house (Board Review 10-11). Det. O'Brien carried a bunker shield and entered first while Det. Cruzado advanced behind him as his security. Det. Cruzado and Det. O'Brien stated that § 87(2)(b) stood to his feet as soon as the officers entered.

§ 87(2)(g) Det. Cruzado initially claimed that § 87(2)(b) was "throwing punches" at the officers throughout the incident. Det. Cruzado then stated that § 87(2)(b) was "swinging his arms" throughout the incident. Det. Cruzado then said that he could not determine whether § 87(2)(b) was "swinging his arms" because he could not clearly see § 87(2)(b) behind Det. O'Brien's shield. Det. Cruzado claimed that § 87(2)(b) refused multiple commands from the officers to surrender his hands and get on the floor. However, Det. Cruzado could not describe how § 87(2)(b) refused to provide his hands and could only state that § 87(2)(b) was "combative." When asked to explain § 87(2)(b)'s "combative" behavior, Det. Cruzado reiterated that § 87(2)(b) was "swinging his arms." In addition, Det. Cruzado claimed that § 87(2)(b) grabbed Det. O'Brien's police shield. Det. Cruzado then stated that the interaction happened quickly and that he was unsure whether or not § 87(2)(b) grabbed the shield. Det. O'Brien also stated that § 87(2)(b) grabbed his shield. However, Det. O'Brien did not see § 87(2)(b) flail his arms during the incident, and he did not see § 87(2)(b) take any other action besides allegedly grabbing the shield. Det. Cruzado brought § 87(2)(b) to the ground by pulling him down by his shoulders, and Det. O'Brien moved further into the house and did not witness the remainder of the incident. The other officers either stated that they entered after § 87(2)(b) was brought to the ground or that they did not observe this interaction because they immediately moved to other parts of the house (Board Review 12-16).

While on the ground, Det. Cruzado stated that § 87(2)(b) moved his body back and forth, kicked his legs, and refused to provide his hands by pulling them under his body (Board Review 10). Det. Topping stated that § 87(2)(b) prevented Det. Cruzado from gaining control of his arms but could not describe § 87(2)(b)'s actions in any detail (Board Review 12). Sgt. Vivar observed that § 87(2)(b)'s arms were trapped under his body, but he did not see § 87(2)(b) take any other action besides holding his arms under his body (Board Review 13). Sgt. Vivar did not see § 87(2)(b) kick his legs. Det. Cruzado stated that he pulled § 87(2)(b)'s arms behind his back and that he did not take any other action to overcome § 87(2)(b)'s resistance. Sgt. Vivar stated that he told § 87(2)(b) to surrender his hands upon entering the house, and § 87(2)(b) placed his hands behind his back of his own accord. Det. Cruzado denied punching § 87(2)(b) and no other officer saw or recalled seeing Det. Cruzado punch § 87(2)(b).

After § 87(2)(b) was restrained, the other residents of the house were brought to the § 87(2)(b) where they remained until the conclusion of the search. The officers who initially entered the § 87(2)(b) did not participate in the search of the house. These officers brought the other residents to the § 87(2)(b) with § 87(2)(b) and they then exited. All of the officers denied seeing any injuries on § 87(2)(b) except for Det. Myers. Det. Myers observed § 87(2)(b)'s laceration immediately prior to leaving the house, and he prepared an AIDED report in regards (Board Review 24). Det. Myers did not observe § 87(2)(b)'s bruises. Det. Myers did not know how § 87(2)(b) sustained the laceration to his forehead because Det. Myers initially entered the first floor of the house. Det. Myers found a BB gun during the search and arrested § 87(2)(b) for § 87(2)(b).

§ 87(2)(b) sustained bruises to his left shoulder, left thigh, and the back of his leg above his knee from Det. Cruzado's punches. § 87(2)(b) and § 87(2)(b) observed these bruises after § 87(2)(b) was handcuffed (Board Review 02 and 05-06). § 87(2)(b) took photos of his injuries on the date of the incident and these photos confirmed the existence of his bruises (Board Review 18-20). § 87(2)(b)'s medical records also confirmed the existence of his bruises, and the medical records reflected that § 87(2)(b) attributed these bruises to being "assaulted" by police officers (Board Review 17).

According to Patrol Guide Procedure 203-11, officers must use the minimum necessary force (Board Review 28).

§ 87(2)(g), § 87(2)(b)

[REDACTED]

Pod:

Investigator: _____
Signature Print Date

Pod Leader: _____
Title/Signature Print Date

Attorney: _____
Title/Signature Print Date